

**THE TOWN OF MAMAKATING TOWN BOARD MEETING HELD ON TUESDAY, FEBRUARY 6, 2018 AT 6:00 P.M. IN THE TOWN HALL, WURTSBORO, NEW YORK.**

**Present:** William E. Herrmann- Supervisor  
Brenda Giraldi- Councilwoman/Deputy Supervisor  
Matt Taylor – Councilman  
Christine Saward – Councilwoman  
Patrick Keller – Councilman  
Graham Vest - Councilman  
Nicholas Salomone, Jr. - Councilman  
J. Benjamin Gailey- Attorney for the Town  
Jean M. Dougherty- Town Clerk

**Also present:** Robert Fiore – Curator  
Catherine Owens-Herrmann – Confidential Secretary to the Supervisor/Legislator  
JoAnn Salamone – Deputy Highway Superintendent  
Kerron Barnes – Interagency Coordinator

**Absent:** Riley Platt III – Highway Superintendent

**Worksession Items for Discussion**

1. Set Date for Comprehensive Plan Town Board Workshop
2. Local Law to prohibit extractive operations in the LIO zoning district and related amendment to 2001 Comprehensive Plan
3. Planning Board Appointment (Alex Goodman till 12/31/24)
4. Speed Limits Wilkinson Drive
5. Tax Certiorari Miralem Kolenovic
6. Road Bond for Ian Ernst
7. Bruce Ferguson Community Solar
8. Budget Modification

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

- The February 2, 2018 meeting was called to order with the pledge to the flag.

**CERTIFICATES OF APPRECIATION**

Employees of the Highway Department, Westbrookville Fire Company and auxiliary were honored for their heroic actions during the recent ice jam incident along the Pinekill. Certificates were given to:

Highway Superintendent Riley Platt

Highway Foreman Richard Dunn

Highway employee Dominick Felice

Highway employee Mitchell Durr

Assistant Fire Chief Lou Tunno

Assistant Fire Chief Bill Latimer

Firefighter Kelly Taggart

Auxiliary members and President Anne Mikulski

***Public Hearings***

Local Law to prohibit extractive operations in the LIO zoning district and related amendment to 2001 Comprehensive Plan. (Continuance)

*Public Comment*

- Paula Medley, President, BCAA stated that the BCAA strongly endorses the prohibition of extractive operations. It is not considered light industry; the aquifer is the 19<sup>th</sup> principal in New York State. The LDC is working on glider field, towpath, long path and the Shawangunk Trail. The Comprehensive Plan/Steering Committee states prohibiting extractive operations. She encouraged the board to act soon.
- Joe Herschel, Owner of Blue Sky Homes, stated that the property is behind Valley Stream Road which is next to Blue Sky Homes. Millions of tons of material will be extracted and felt it would be a hardship to residents of Blue Sky Manor and the residents on Valley Stream Road. The property in question is 75 feet from his property line. The air is thick and noise is a hindrance to residents. He also pointed out that there have been many accidents over the years and that trucks going slow will cause death and carnage. He added that he has seen pheasants, turkeys and deer on Route 209. Mr. Herschel he concluded that the area is residential and the LIO zone does not call for heavy use. He will give written comment to the board.
- Chris Leser stated he has a map from the county depicting the runway at the airport and thinks it might cause a problem. He asked how many people would be employed, what would determine the assessment and will it benefit the town.
- Maureen Hallahan, TOM resident stated that she was in favor of the project. We don't have a lot of private sector businesses and ratables. Much of the aggregate produced by the Tetz family include Route 17 etc. She felt it would insure commercial growth in our town. She added that the Tetz family is a family that has donated to so many organizations and projects over the years and in conclusion the project, once completed and reclaimed would give the residents a place to bike, hike and swim.
- Jeff Short owns property near the airport and stated that he comes up to get away from Long Island and referenced Kohl's as an example and feels it is disruptive to the residents.
- Michael Fogel, attorney referenced letters sent to the town and stated that mining with a special use permit was allowable in the LIO zone. His focus was on the SEQR review that he thought was not done or he has seen so far. He added that he submitted a TL265 (petition) which would then require a super majority vote by the town board.

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- Rosemary Stack, attorney on behalf of Hopper Hill, LLC and E. Tetz and Sons stated that following some comments by the public, she thinks the public isn't aware of the reclamation plans and asked the BKAA to consider the donation and the park. Regarding the "carnage" statement, no accidents that they are aware of. In regard to the statement that no one from the Tetz family was here, the whole back row are all members of the Tetz family and that they live in this town and take great pride in their work. She added that sand was sold to Sullivan County and others. Petitions were handed to the town clerk. Ms. Stack continued that she has been involved with the Tetz family since 1998 and was involved with the Summitville mine and now no calls or complaints have been received. The sites are clean, immaculate and well kept. Every person in this room uses the materials. She asked the board to consider future generations and asked the board to reconsider.

A motion was made by G. Vest, seconded by P. Keller to close the Public Hearing and allow 10 days for written comment. All in favor.

Local Law - Solar Amendment (Continuance)

### Public Comment

- Cecelia Walsh applauded the town board for the amendment to the solar law. Clear cutting is an issue as well as stormwater control, use of runoff and herbicides. She is happy with the 5 acre portion.
- Chris Leser stated that he hoped that the repetition doesn't continue tonight from the representatives of Cypress Creek. He also asked for clarification of the "soil" and how is it going to be transported etc.
- Francis O'Mara thanked the town board for taking their time with this issue. Monica Brennan, his wife, added that Sullivan County solar is active and the town is being proactive in its decisions.
- Dan Compitello, Cypress Creek representative, stated that the amendment would be prohibitive and that there is limited availability of land.
- Tom Puchner, attorney for Cypress Creek added that the amendment, if adopted, would have financial impact on Cypress Creek.
- John Lang said there were many questions following the last meeting that were unanswered.

A motion to close the public hearing with written comment being accepted for 10 days was made by C. Saward, seconded by M. Taylor. All in favor.

**Due Process Hearings-Unsafe Structures**

A motion to open the hearings was made by B. Giraldi, seconded by C. Seward. All in favor.

**21 Longview Trail**

Owner has been in contact with the building department and demolition is in process.

**TOWN OF MAMAKATING TOWN BOARD - RESOLUTION AND ORDER 36 SUNRISE TRAIL - TAX MAP NO. 43.-7-9**

WHEREAS, the Code Enforcement Officer has previously determined that the property located at 36 Sunrise Trail (Tax Map No. 43.-7-9) is in violation of the Town Unsafe Building Code and the property owner was directed to comply with the law and remedy the violations;

WHEREAS, upon due notice and after additional time to comply, a due process hearing was held before the Town Board on February 6, 2018, to determine whether to issue an Order requiring remedy and abatement of the violations and authorize the Code Enforcement Officer to take the necessary steps to carry out the Board's Order;

WHEREAS, the property owner failed to appear at the due process hearing and failed to comply with the Notice of Violation and Order to Remedy issued by the Code Enforcement Officer.

NOW, THEREFORE, BE IT RESOLVED that the Town Board determines that the property owner, despite repeated notice and opportunity to comply, has failed to make the premises safe and secure by removing the building, and otherwise failed to comply with the Order to Remedy and the Town Board orders for the remedy and abatement of the violations.

IT IS FURTHER RESOLVED that the Building Inspector is directed to obtain price quotes and arrange for the demolition and removal of the building from the property by the Town's contractor. All costs and expenses incurred by the Town in connection with the proceedings and all the above work to make the premises safe and secure shall be assessed against the premises above described and shall be levied on the real property tax bill and collected in the same manner as other real property taxes.

On a motion by Councilperson C. Seward, seconded by Councilperson B. Giraldi, the foregoing resolution was adopted on a 7-0 vote.

**Sunrise Trail (SBL 42.-8-8)** Property is bank owned and under contract to be sold with the understanding that demolition must take place. New owner name is Shunac Lee. An attorney representing the buyer asked that the board give the new owner time to confront this issue and change the date to April 1<sup>st</sup>. The board agreed and C. Saward made a motion to agree to those terms, seconded by G. Vest. All in favor.

**TOWN OF MAMAKATING TOWN BOARD RESOLUTION AND ORDER - 15 TRAIL FOUR - TAX MAP NO. 38.-9-2**

WHEREAS, the Code Enforcement Officer has previously determined that the property located at 15 Trail Four (Tax Map No. 38.-9-2) is in violation of the Town Unsafe Building Code and the property owner was directed to comply with the law and remedy the violations;

WHEREAS, upon due notice and after additional time to comply, a due process hearing was held before the Town Board on February 6, 2018, to determine whether to issue an Order requiring remedy and abatement of the violations and authorize the Code Enforcement Officer to take the necessary steps to carry out the Board's Order;

WHEREAS, the property owner failed to appear at the due process hearing and failed to comply with the Notice of Violation and Order to Remedy issued by the Code Enforcement Officer.

NOW, THEREFORE, BE IT RESOLVED that the Town Board determines that the property owner, despite repeated notice and opportunity to comply, has failed to make the premises safe and secure by removing the building, and otherwise failed to comply with the Order to Remedy and the Town Board for the remedy and abatement of the violations.

IT IS FURTHER RESOLVED that the Building Inspector is directed to obtain price quotes and arrange for the demolition and removal of the building from the property by the Town's contractor. All costs and expenses incurred by the Town in connection with the proceedings and all the above work to make the premises safe and secure shall be assessed against the premises above described and shall be levied on the real property tax bill and collected in the same manner as other real property taxes.

On a motion by Councilperson C. Saward, seconded by Councilperson G. Vest, the foregoing resolution was adopted on a 7-0 vote.

## COUNTY LEGISLATIVE REPORT – Catherine Owens-Herrmann

Sullivan County legislature has named the bridges in Mamakating to be repaired or replaced in the next two years: David Rhodes Road, Gumaer Falls Road, Hamilton Road, Pinekill Road and Tempaloni Road.

The Government Services Committee has passed a resolution that salaries for candidates must be set by July 31 of the year preceding commencement of the term of office.

There are two job fairs, BOCES in February and the County in April. More than 50% of casino employees are Sullivan County residents.

There is now a Commercial Driver's License test site in Sullivan County; more convenient for applicants since there are three tests a week.

Plans and Progress applications for 2018 are due in April.

## SUPERVISOR'S REPORT

- The Village of Bloomingburg ordered a water study due to some residents running out of water. Would like the town to order a hydrogeological study. VOB allowed a well to be drilled less than the 150 ft. requirement. Consider legal action against the DOH, VOB and Chestnut Ridge?
- Request for signage on Ferguson Road alerting people of curve in road.
- Open Space Institute buying 2 properties consisting of 202 acres in the railroad tunnel area.
- Association of Towns Annual training school for Town officials in February.

## ABSTRACTS

- A motion was made by G. Vest, seconded by B. Giraldi to approve the following abstract as presented: **Abstract #2** (Voucher #20180030-20180085) in the amount of \$165,275.38. All in favor.
- A motion was made by G. Vest, seconded by B. Giraldi to approve the following abstract as presented: **Abstract #3** (Voucher #20180086-20180211) in the amount of \$5,023,075.98. All in favor.
- A motion was made by B. Giraldi, seconded by M. Taylor to approve the following abstract as presented: **Abstract #27** (Voucher #20172269-20172326) in the amount of \$82,859.37. 4 ayes, 3 abstentions (G. Vest, N. Salomone, P. Keller).
- A motion was made by C. Saward, seconded by G. Vest to accept the **Manual Check Register** in the amount of \$132.00 – 2 checks. All in favor.
- A motion was made by B. Giraldi, seconded by C. Saward accepting the **2017 Budget Modifications** as presented. 4 ayes, 3 abstentions (G. Vest, N. Salomone, P. Keller).
- A motion was made by M. Taylor, seconded by G. Vest accepting the **2018 Budget Modifications** as presented. All in favor.

## MINUTES

- A motion was made by M. Taylor, seconded by C. Saward to accept the Minutes of **December 28, 2017**. 4 ayes, 3 abstentions (G. Vest, N. Salomone, P. Keller).
- A motion was made by C. Saward, seconded by G. Vest to accept the Minutes of **January 2, 2018**. All in favor.

## RESOLUTIONS

### Settling of Tax Certiorari Claim

At a meeting of the Town Board of the Town of Mamakating, County of Sullivan, State of New York, held at Town Hall in said Town on the 6th day of February, 2018;

WHEREAS, **MIRALEM KOLENOVIC.**, has commenced a tax certiorari proceeding against the Town of Mamakating in the Supreme Court of the State of New York, County of Sullivan for the 2017-18 tax assessment year bearing Sullivan County Index # 1354/2017;

WHEREAS, it appears from the recommendation of the Town Assessor and Allison G. Cappella, Esq., of Jacobowitz and Gubits, LLP counsel for the Town of Mamakating in the aforesaid proceedings, upon a thorough investigation of the claims that further proceedings and litigation by the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth below is reasonable and in the best interests of the Town; and

WHEREAS, MIRALEM KOLENOVIC is willing to settle these proceedings without interest, costs or disbursement, in the following manner;

(1) That the proceedings for the 2017-18 tax year be compromised and settled by the assessment being reduced from \$84,700 to a total amount of \$44,000 for tax map no. 62.-1-18.1.

(5) That the Petitioner's real property taxes on said parcels above described for the 2017-18 School taxes and for the 2018 County and Town taxes be adjusted accordingly and the Petitioner be reimbursed for any overpayment or be credited with the corresponding decrease in taxes, as the case may be;

NOW, BE IT THEREFORE RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to § 68 of the Town Law, and it is further;

RESOLVED, that Amy Platt, Assessor of the Town of Mamakating and Allison G. Cappella, Esq. on behalf of Jacobowitz and Gubits, LLP be and they hereby are designated as the officers of the Town who shall apply for such approval pursuant to the aforesaid section and law and be it further;

On a motion by Councilperson C. Saward, seconded by Councilperson G. Vest, the foregoing resolution was adopted to a vote of 7 Ayes, 0 Nays.

#### RESOLUTIONS (cont.)

- A motion reappointing Alex Goodman to the **Planning Board** was made by G. Vest, seconded by M. Taylor. All in favor. Appointment term 1/1/18-12/31/24.
- As per the recommendation of the Highway Superintendent, a motion releasing the **logging bond** of Ian Ernst, Inc. in the amount of \$2,500.00 was made by C. Saward, seconded by G. Vest. All in favor.
- A motion was made by C. Saward, seconded by B. Giraldi authorizing the request for **signage on Ferguson Road** at mile 1.5 to alert people of the curve in the road. All in favor.
- A motion to request a reduced speed limit of 30 MPH on **Wilkinson Drive** was made by C. Saward, seconded by P. Keller. All in favor.

#### EXECUTIVE SESSION

- A motion was made by B. Giraldi, seconded by C. Saward to go into Executive Session at 8:15 p.m. to obtain attorney advice on a building department matter, highway negotiations and the solar zoning amendments. All in favor.
- A motion was made at 8:45 p.m. by C. Saward, seconded by G. Vest to come out of Executive Session. All in favor.
- A motion to close the public hearing on the Solar amendment with written comment being accepted for 10 days was made by C. Saward, seconded by M. Taylor. All in favor.
- A motion to rescind the demolition order from 2003 on Minister Flats Road subject to payment by the property owner of all applicable fees and penalties was made by C. Saward and seconded by B. Giraldi. All in favor.

#### ADJOURNMENT

- A motion to adjourn the meeting was made by B. Giraldi, seconded by P. Keller. All in favor.

Respectfully Submitted;

Jean M. Dougherty, Town Clerk